

CHAPTER 7. PRESENTATION, FILING, SERVICE AND MAINTENANCE OF COURT PAPERS

7.1 Proposed Judgments, Decrees and Orders in Uncontested Matters

In uncontested proceedings (e.g. uncontested dissolution of marriage, default judgment and routine probate applications) an original and one copy of the proposed judgment, decree or order sought in the proceeding shall be presented to the clerk of court prior to the clerk's preparation of the calendar upon which such matter is proposed to be heard, and not less than four (4) court days before the initial date set for the hearing. The judgments, decrees and orders must be presented not later than 3:00 p.m. on the Monday before the Friday calendar. The clerk shall not place such proceeding on the calendar for hearing and shall not prepare minutes unless the original of the proposed judgment, decree or order shall have been so presented.

Eff. Jan. 1, 1999.

7.2 Filing and Service of Orders

All written orders including orders to show cause, orders for examination of judgment debtors, temporary restraining orders and injunctions signed by a judge shall be filed forthwith and an endorsed copy shall be served upon the parties to be notified thereof and an endorsed copy bearing proof of service shall be filed not later than the fourth court day prior to the hearing. No hearing shall be calendared and no minutes shall be prepared unless the original signed by the judge is in the file.

Eff. Jan. 1, 1999.

7.3 Entry of Court Orders in Minutes

The clerk of court shall keep in the file minutes of court orders, actions and proceedings and shall place a copy of each minute order in the file of the action in chronological order in lieu of the minute book. Prior to the destruction of such records, the clerk shall cause a copy thereof to be made as a part of the permanent records of the court.

Eff. Jan. 1, 1999.

7.4 Caption on Pleadings

Each pleading shall contain a heading which shall contain the following information:

SUPERIOR COURT OF CALIFORNIA		
COUNTY OF MENDOCINO		
)	
)	<u> (1) .</u>
Plaintiff,)	
vs)	No. CV
)	
)	DOCUMENT TITLE
Defendant)	[See Local Rule 7.5]

- (1) If the matter is one that prior to unification would have been filed in the municipal court, or if it is a matter described in California Rules of Court, rule 709, insert the word "Limited"; for all other matters insert the word "Unlimited". The clerk will not accept a document for filing unless the blank is completed.

Each pleading shall comply in all respects with California Rules of Court 311 through 319 inclusive.

Eff. Jan. 1, 1999. As amended, eff. July 1, 2000.

7.5 Headings and Footers on Papers Identifying Parties and Papers; Amended Orders

- a. Each pleading shall contain a heading which includes a brief description of the pleading and the identity of the party for whom it is filed (e.g. "Defendant Dorothy Smith's Answer to Complaint" or "Cross-Defendant Peter Ross' Answer to Cross-Complaint of Acme Corporation").
- b. Except for exhibits, each paper filed with the court shall bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer shall contain the title of the paper (examples: "Complaint", "XYZ Corp.'s Motion for Summary Judgment") or some clear and concise abbreviation.

- c. No clerk shall accept for filing or file any papers which do not comply with this rule and California Rules of Court 311 through 319 inclusive.
- d. If counsel requests that the court issue an amended or revised order the request shall be in writing and it shall specifically describe the changes in the proposed document with reference by page and line number to the original document.

Eff. Jan. 1, 1999. As amended, eff. July 1, 1999; July 1, 2000.

7.6 Headings on Motions and Orders

Each motion and order shall contain a heading which includes a brief description of the order sought or granted and parenthetical reference to the basic statute authorizing the motion or order (e.g. "Defendant Dorothy Smith's Notice of Motion for Order Striking Irrelevant Matter From Complaint", (CCP section 435) or "Order Granting Plaintiff's Motion for Summary Judgment" (CCP section 437c)). No clerk shall accept for filing or file any papers which do not comply with this rule and California Rules of Court 311 through 319 inclusive.

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

7.7 Pleadings and Records in Eminent Domain Actions and Actions for Foreclosure of Bonds and Assessments Involving More Than One Parcel of Property

The plaintiff's complaint shall set forth in addition to the matters required by section 1250.310 of the Code of Civil Procedure, numbers or symbols to identify each of the parcels of property. The defendant's answer, demurrer or written appearance shall set forth in the space below the number of the case and in parenthesis the parcel numbers or symbols that identify the property claimed by him or her.

- a. **Copy of Pleadings.** Within ten (10) days after service of each defendant's pleadings, the plaintiff shall file a duplicate copy of his/her complaint, summons, lis pendens and other pertinent documents. A defendant who claims more than one parcel of property shall file a copy of his/her pleading for each parcel claimed by him or her. A copy of such pleading shall be filed by the clerk in the appropriate parcel file.
- b. **Register.** The clerk shall include in the register opposite each named defendant the numbers or symbols that identify the property in which he or she is alleged to have an interest.

- c. **Parcel Files.** The clerk shall file the pleading of each of the defendants in separate file folders. All the file folders shall have the same tab position and bear the number of the action. Following the number of the action the file folders of each defendant shall set forth the parcel numbers or symbols identifying the property claimed by said defendant. Thereafter all papers pertaining to that property shall be filed in that file folder.

Eff. Jan. 1, 1999.

7.8 Form of Documents Presented for Filing

- a. The word "documents" as used in this rule includes all documents, except for "papers" as that term is defined in rule 201(a) of the California Rules of Court, which are offered for filing in any case in the Mendocino County Courts, including printed forms of the type furnished by the clerk of the court or promulgated by the Judicial Council of California.
- b. All documents shall be clear and legible.
- c. Pleadings shall be on white paper. Any material inserted into blanks on a document shall be inserted by typewriting in black or blue-black ink in a standard or customary size style, not including ornate or cursive styles and in a type size not smaller than pica (except as otherwise may be provided by statute). The court may, upon specific request, made at the time the document is offered for filing waive this requirement if the other requirements herein set forth are fully met.
- d. A document which is produced by photocopying a printed form of the type furnished by the clerk of the court or promulgated by the Judicial Council of California shall possess the same format with respect to the face and reverse sides of the form as does the printed form from which it is copied.
- e. A trial brief shall contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced. No trial brief shall exceed 15 pages. Any application for relief must be presented to a judge of this court and determined prior to the filing of the trial brief or memoranda. Said application must be accompanied by a declaration showing good cause. The application may be presented ex parte without compliance with local rule 8.4 or California Rules of Court, rule 379.

- f.** A memorandum of points and authorities in support of and opposition to a motion are limited as set forth in California Rules of Court, rule 313(d). Any application for relief must be presented and determined prior to the filing of the memoranda. Said application must be accompanied by a declaration showing good cause. The application may be presented ex parte without compliance with local rule 8.4 or CRC rule 379.
- g.** When a request is made to the court to issue an amended order or an amendment to an order, the request shall be accompanied by a declaration setting forth the nature of the requested amendment and identifying by page and line the portion(s) of the existing order for which the amendment is requested.

No clerk shall accept for filing or file any document which does not comply with this rule; provided, the court or the clerk may, upon specific request, made at the time the document is offered for filing, waive the requirements set forth herein for a particular document.

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2000. As amended, eff. Jan. 1, 2003

7.9 Presentation of Ex Parte Application

An ex parte order will be issued only if the application is accompanied by a declaration adequate to support its issuance. An ex parte order will not be issued unless one of the following conditions exist:

- a.** Notice was given to the adverse party so that the party might oppose the application; or,
- b.** It clearly appears in the declaration that giving notice would clearly frustrate the purpose of the proposed order; or,
- c.** The applicant would suffer an irreparable injury before the adverse party could be heard in opposition; or,
- d.** It appears by declaration that no significant burden or inconvenience would result to the adverse party.
- e.** The applicant has complied with California Rule of Court 379.

Such orders may be submitted to the clerk for review by the first available judge; or, when deemed necessary by the presenting party, an appointment may be

scheduled with the first available judge and the attorney for such party, at which the proposed order may be presented to, reviewed and determined by the judge.

Eff. Jan. 1, 1999.

7.10 Orders for Examination

If neither party appears, or if the moving party does not appear at the time and place of the examination the order of examination shall be considered to be discharged.

If the party to be examined fails to appear at the time and place set for said examination, a bench warrant may issue.

Eff. Jan. 1, 1999.

7.11 Order After Hearing and Notice of Entry of Judgment

The prevailing party shall prepare orders after hearing pursuant to California Rule of Court 391.

Eff. Jan. 1, 1999.

7.12 Withdrawal or Substitution of Attorney

The Notice of Motion to be Relieved as Counsel (Civil), the supporting declaration and the order Granting Attorney's Motion to be Relieved as Counsel (Civil) shall be made on the current forms adopted for mandatory use by the Judicial Council of California. Absent special circumstances the Order shall be effective upon the filing of the proof of service of such Order upon the client.

A Substitution of Attorney (Civil) Without Court Order shall be made on the current form adopted for mandatory use by the Judicial Council of California.

All forms shall be fully completed when filed or submitted to the court.

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003.